



DOCKET FILE COPY ORIGINAL

100 South Jefferson Road
Whippany, New Jersey 07981
201/884-8160

Joanne Salvatore Bochis
Associate General Counsel

RECEIVED

SEP 10 1993

September 10, 1993

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

Mr. William F. Caton
Acting Secretary
Federal Communications Commission
Room 222
1919 M Street, N.W.
Washington, D.C. 20554

Re: 1993 Annual Access Tariff
Filings

CC Docket No. 93-193

Dear Mr. Caton:

Enclosed herewith for filing with the Commission are the original and seven copies of the National Exchange Carrier Association, Inc.'s Rebuttal in the above-captioned matter.

Please acknowledge receipt hereof by affixing a notation on the duplicate copy of this letter furnished herewith for such purposes and remitting same to bearer.

Very truly yours,

Joanne S. Bochis
Joanne S. Bochis *JSB*

JSB/bas
Enclosures

No. of Copies rec'd
List ABCDE

017

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

RECEIVED

SEP 10 1993

In the Matter of)

1993 Annual Access Tariff)
Filings)

CC Docket No. 93-193

REBUTTAL

The National Exchange Carrier Association, Inc. (NECA) submits this Rebuttal to American Telephone & Telegraph Company's (AT&T) Opposition to Direct Cases filed August 24, 1993, as it pertains to NECA's July 27, 1993 Direct Case.¹ NECA filed its Direct Case in response to the Common Carrier Bureau's 1993 Access Tariff Designation Order.² As demonstrated below, the arguments presented by AT&T are without merit and do not warrant further investigation of NECA's tariff revisions.³

¹ National Exchange Carrier Association, Inc., GSF Order Compliance Filings, CC Docket No. 93-193, filed July 27, 1993 (Direct Case). MCI Communications Corporation and Ad Hoc Telecommunications Users Committee also filed Oppositions but did not address NECA's Direct Case.

² 1993 Annual Access Tariff Filings, National Exchange Carrier Association Universal Service Fund and Lifeline Assistance Rates, GSF Order Compliance Filings, Bell Operating Companies' Tariff for the 800 Service Management System and 800 Data Base Access Tariffs, Memorandum Opinion and Order Suspending Rates and Designating Issues for Investigation, CC Docket Nos. 93-193, 93-123 and 93-129 and Trans. No. 556, DA 93-762, released June 23, 1993 (1993 Access Tariff Designation Order).

³ NECA also demonstrated through its Direct Case that the Commission's issue designated for investigation ("Have the LECs properly reallocated GSF costs in accordance with the GSF Order?", 1993 Access Tariff Designation Order at ¶ 105(6).) can be answered in the affirmative with respect to NECA. (See note 4 for GSF Order cite).

I. SUMMARY OF OPPOSITION

In its Opposition, AT&T asserts that twenty-six companies who participate in the NECA Common Line (CL) pool but not the NECA Traffic Sensitive (T/S) pool failed to file revised T/S rates as a result of the GSF Order.⁴ As a result, AT&T claims that these twenty-six exchange carriers (ECs) would receive an unwarranted double recovery of \$3.4 million.⁵ To remedy the situation, AT&T requests that the Commission reduce NECA's CL revenue requirement by \$3.4 million to preclude this double recovery.⁶

II. DISCUSSION

AT&T's request that the Commission reduce NECA's CL revenue requirement to preclude a double recovery by non-NECA T/S pool companies is illogical. Under its scenario, AT&T would have the Commission contradict its own rules regarding the allocation of GSF-related costs to the Common Line element. Reducing the CL revenue requirement would have the effect of maintaining the status quo for these non-NECA T/S pool ECs, allocating GSF investment and related expenses among the Part 69 cost

⁴ AT&T at 36 referencing Amendment of the Part 69 Allocation of General Support Facilities Costs, Report and Order, CC Docket No. 92-222, 8 FCC Rcd 3697 (1993) (GSF Order). See also AT&T Appendix C-2, Page 1 of 1, for list of ECs who are NECA CL pool participants only and who AT&T claims have failed to file T/S rate reductions.

⁵ Id. at 36.

⁶ Id. at 37.

categories excluding Category 1.3 investment in violation of the revised Commission's rule (47 C.F.R. § 69.307(b)). This is a position the Commission sought to rectify through its GSF Order.⁷

Further, AT&T contends that NECA is obligated to correct data in its revenue requirement and revenue distribution processes if such data does not comply with Commission rules.⁸ AT&T's argument all but supports NECA's position. NECA does not dispute that it has the responsibility to ensure that the Commission's rules are followed as they relate to the revenue requirement and revenue distribution processes of its tariff participants. NECA's filing does reflect the twenty-six ECs' submission of accurate CL revenue requirement data in compliance with the GSF Order. NECA, moreover, has no authority to withhold CL payments to ECs that have provided accurate CL revenue requirements in accordance with Commission rules, as AT&T would have it do. AT&T's proposal would have NECA modify

⁷ The Commission acknowledged that this correction was required to avoid an under-allocation of GSF investment to the CL category and an over-allocation of such investment to other access categories, including special access and switched transport. GSF Order at 3697, 3699.

⁸ AT&T at 37. AT&T quotes the NECA Safeguards Order to emphasize NECA's responsibilities, but conveniently excludes the reference to NECA's access tariffs. The Commission's statement actually reads: "NECA must make reasonable efforts to ensure that all LECs that participate in its access tariff and revenue distribution processes comply with those Commission rules that affect those processes." Safeguards to Improve the Administration of the Interstate Access Tariff and Revenue Distribution Processes, Notice of Proposed Rulemaking, 8 FCC Rcd 1503, 1507 (1993) (emphasis added indicates text excluded from AT&T's Opposition at 36-37.)

CL data in its revenue requirement and revenue distribution process in a way that would violate the Commission's rule as it relates to GSF investment and related expenses.

AT&T continues to disregard the fact that the failure of an EC that does not participate in NECA's T/S tariff to file its own T/S rates is a separate matter unrelated to NECA's CL filing and revenue distribution process.⁹ As NECA has stated previously, to the extent that a company not in the NECA T/S pool did not file revised T/S access charges with the Commission to conform to the revised GSF allocation rules, AT&T's complaint should be directed to that company.¹⁰

Furthermore, AT&T fails to raise any question of lawfulness with respect to NECA's CCL rates, nor has it shown that NECA's CCL rates are unjustified. AT&T's Opposition does not dispute that the CCL rate for the NECA pool participants was developed in accordance with the Commission's rules. Moreover, AT&T does not attempt to refute that the revenue requirements filed by NECA in the June 17 Filing correctly reflect the revenue requirements of its pools' participants. Thus, AT&T's arguments against NECA's Direct Case are misplaced and should not be considered in this proceeding.

⁹ AT&T admits that "[a]lthough it may be correct that NECA has no authority to compel these twenty-six companies to file tariffs which reflect the appropriate T/S reductions. . . ." AT&T at 36.

¹⁰ See NECA's June 28, 1993 Reply to AT&T's Petition to Suspend and Investigate NECA's Tariff F.C.C. No. 5, Transmittal No. 560 at 6.

III. CONCLUSION

This Rebuttal demonstrates that AT&T's Opposition to NECA's Direct Case is without merit and should be denied. AT&T fails to provide any substantive rationale for its request to reduce NECA's CL revenue requirements. Moreover, AT&T has not presented any arguments concerning the lawfulness or reasonableness of NECA's rates. NECA requests that the Commission find NECA's GSF rates lawful and reasonable and allow these rates to remain in effect after July 2, 1993 without change.

Respectfully submitted,

NATIONAL EXCHANGE CARRIER
ASSOCIATION, INC.



Joanne Salvatore Bochis

100 South Jefferson Road
Whippany, New Jersey 07981

Its Attorney

September 10, 1993

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing Rebuttal was served this 10th day of September, 1993, by mailing copies thereof by United States Mail, first class postage paid, to the persons listed.

By Christine DeCarlo
Christine DeCarlo

The following parties were served:

Francine J. Berry
AT&T
295 North Maple Avenue
Basking Ridge, New Jersey 07920

Robert J. McKee
AT&T
295 North Maple Avenue
Basking Ridge, New Jersey 07920

Peter H. Jacoby
AT&T
295 North Maple Avenue
Basking Ridge, New Jersey 07920

Judy Sello
AT&T
295 North Maple Avenue
Basking Ridge, New Jersey 07920